

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

SHAHMEHDI, SEYED and SEYED S. SHAHMEHDI, DMD, P.A.

(b) County of Residence of First Listed Plaintiff **Passaic**

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, Email and Telephone Number)

Soliman & Associates, P.C. c/o Ahmed M. Soliman, Esq.
923 Haddonfield Road, Ste. 300, Cherry Hill, NJ 08002
856-324-8313

DEFENDANTS

NIJHAWAN, VIVEK and PREMIER FAMILY DENTAL, P.C.

County of Residence of First Listed Defendant **Passaic**

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff, and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|---------------------------------------|---------------------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input checked="" type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input checked="" type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTIONCite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): **15 U.S.C. § 1114, 15 U.S.C. § 1125(a)**

Brief description of cause:

Using registered trademark of Plaintiffs for same service in same township

VII. REQUESTED IN COMPLAINT:
☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.
DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

8/23/16

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEW JERSEY

DR. SEYED SHAHMEHDI and
SEYED S. SHAHMEHDI, DMD,
P.A.,

Plaintiffs,

v.

PREMIER FAMILY DENTAL,
P.C. and DR. VIVEK
NIJHAWAN,

Defendants.

:
:
:
:
: Civil Action No. _____
:
: VERIFIED COMPLAINT
: (with jury demand)
:
:
:

COMPLAINT FOR TRADEMARK INFRINGEMENT

Plaintiff Dr. Seyed Shahmehdi and Seyed S. Shahmehdi, DMD, P.A.
("Plaintiffs") for their causes of action against Defendants Premier Family Dental, P.C.
and Dr. Vivek Nijhawan ("Defendants") alleges as follows:

INTRODUCTION

1. Plaintiffs bring this lawsuit to protect the substantial good will that they have developed over the past several years in the distinctive dental practice name of Premiere Family Dental Care. Plaintiffs' federally-registered trademark has gained a reputation as being a trusted dental practice in the Clifton, New Jersey area.

2. The good will and reputation for dental care that Plaintiffs have worked so hard to cultivate is being threatened by Defendants' actions. Defendants operate another dental practice located on the same street, and in the same town, as Plaintiffs, and have used and continues to use the name Premier Family Dental Care, which is confusingly similar to

Plaintiffs' business name of Premiere Family Dental, to provide dental care in the same street and town as Plaintiffs. Unless Defendants are enjoined from using the Premier Family Dental name, such use will continue to cause consumer confusion and will cause irreparable harm to Plaintiffs.

3. This action seeks injunctive relief, damages and other appropriate relief arising from Defendants' willful acts of trademark infringement and unfair competition.

JURISDICTION AND VENUE

4. This is an action for infringement of a federally-registered trademark in violation of Section 32(1) of the Lanham Act (15 U.S.C. § 1141(1)) and for unfair competition in violation of Section 43(a) of the Lanham Act (15 U.S.C. § 1125(a)).

5. This court has subject matter jurisdiction over this action under 15 U.S.C. § 1121 and 28 U.S.C. §§ 1331 and 1338 because it involves substantial claims arising under the Lanham Act.

6. The court has supplemental jurisdiction over Plaintiffs' state law claims under 28 U.S.C. § 1367.

7. Defendants' acts of infringement of Plaintiffs' registered mark were committed in the District of New Jersey, within the jurisdiction of this Court. Defendants have advertised their services under the infringing mark in this state and have sold their services under the infringing mark.

8. Venue is proper in this court pursuant to 28 U.S.C. § 1391 as the defendants may be found or transacts affairs in this district and the claims alleged arose and are continuing to occur in this district.

PARTIES

9. Plaintiff Dr. Seyed S. Shahmehdi is an adult individual with an office and place of business at 1114 Clifton Avenue, Clifton, NJ 07013, and is the principle of Seyed S. Shahmehdi, DMD, P.A.

10. Plaintiff Seyed S. Shahmehdi, DMD, P.A. is a corporation organized and existing under the laws of the State of New Jersey, having an office and place of business at 1114 Clifton Avenue, Clifton, NJ 07013.

11. Upon information and belief, Defendants Premier Family Dental, P.C. is a corporation organized and existing under the laws of the State of New Jersey, having an office and place of business at 520 Clifton Avenue, Suite 4, Clifton, NJ 07011.

12. Upon information and believe, Defendant Dr. Vivek Nijhawan is an adult individual with an office and place of business at 520 Clifton Avenue, Suite 4, Clifton, NJ 07011.

COUNT I

FEDERAL TRADEMARK INFRINGEMENT (15 U.S.C. § 1114)

13. Plaintiffs re-allege and incorporate by reference the allegations of the preceding paragraphs, as though fully set forth.

14. As their first grounds for relief, Plaintiffs allege federal trademark infringement under Section 32(1) of the Lanham Act, 15 U.S.C. § 1114(1).

15. Plaintiffs have provided dental services in United States commerce under the Premiere Family Dental Care name since 2003. They have used the Premiere Family Dental Care mark continuously in United States commerce since that time.

16. Notwithstanding Plaintiffs' pre-established use of the PREMIERE FAMILY DENTAL CARE name, in 2012 Defendants adopted and began using the confusingly

similar mark PREMIER FAMILY DENTAL in connection with dental care on the same street, and in the same town, as Plaintiffs.

17. Plaintiff Dr. Seyed S. Shahmehdi is the owner of federal trademark registration 4719498, which was filed on August 4, 2014 and issued on April 14, 2015 on the principal register of the United States Patent and Trademark Office. This registration for the Premiere Family Dental Care mark covers dentist services, particularly fillings, bonding, sealants, exams, whitening, veneers, crowns, dentures, implants, root canal treatment, bridges and TMJ treatments. See Exhibit A attached hereto. This registration has become incontestable under the provisions of 15 U.S.C. § 1065. The trademark is valid and subsisting and its registration has never been cancelled.

18. Plaintiffs' services are offered in Clifton, New Jersey.

19. Plaintiffs have invested substantial time, effort and financial resources promoting the Premiere Family Dental Care trademark in connection with the dental services they offer. The Premiere Family Dental Care mark has become, through widespread and favorable public acceptance and recognition, an asset of substantial value as a symbol of Plaintiffs, their quality dental service and good will.

20. Plaintiffs' Premiere Family Dental Care mark is inherently distinctive as applied to Plaintiffs' dental service in Clifton, NJ.

21. Notwithstanding Plaintiffs' established rights in the trademark PREMIERE FAMILY DENTAL CARE, on information and belief, Defendants use the confusingly similar mark PREMIER FAMILY DENTAL in connection with dental care.

22. Defendants offer dental care services on the same street, and in the same town of Clifton, as Plaintiffs.

23. Without Plaintiffs' consent, Defendants have used the PREMIER FAMILY DENTAL mark in connection with the offering of dental care services.

24. Defendants have engaged in its infringing activity despite having constructive notice of Plaintiffs' federal registration rights under 15 U.S.C. § 1072 and, upon information and belief, despite having actual knowledge of Plaintiffs' use of the PREMIERE FAMILY DENTAL CARE mark.

25. Upon information and believe, when Defendants receive phone calls inquiring as to whether it is the same dental practice of Plaintiff Dr. Seyed Shahmehdi, Defendants have falsely stated that it is, and scheduled the patients for service who were seeking the service of Plaintiffs.

26. Defendants' actions have lead the public to conclude, incorrectly, that their services originate with or are authorized by Plaintiffs, which has damaged both Plaintiffs and the public.

27. Upon information and belief, Defendants have advertised and offered its services for sale using the PREMIER FAMILY DENTAL mark with the intention of misleading, deceiving or confusing consumers as to the origin of its goods and of trading on Plaintiffs' reputation and good will.

28. Plaintiffs have requested in writing that Defendants cease and desist from their infringing actions but Defendants have not responded to these requests. Plaintiffs' letter to Defendants is attached as Plaintiffs' Exhibits B.

29. Defendants' unauthorized use of the PREMIER FAMILY DENTAL mark in interstate commerce as described above constitutes trademark infringement under 15 U.S.C. § 1114(1) and has caused consumer confusion, mistake, or deception.

30. As a direct and proximate result of Defendants' trademark infringement, Plaintiffs have suffered and will continue to suffer loss of income, profits and good will and Defendants have and will continue to unfairly acquire income, profits and good will.

31. Defendants' acts of infringement will cause further irreparable injury to Plaintiffs if Defendants are not restrained by this Court from further violation of Plaintiffs' rights. Plaintiffs have no adequate remedy at law.

COUNT II
FEDERAL UNFAIR COMPETITION (15 U.S.C. § 1125(a))

32. Plaintiffs re-allege and incorporate by reference the allegations of the preceding paragraphs, as though fully set forth.

33. As their second ground for relief, Plaintiffs allege federal unfair competition under Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a).

34. Defendants' unauthorized marketing and sale of its services in interstate commerce using the PREMIER FAMILY DENTAL mark and logo constitutes a use of a false designation of origin or false representation that wrongfully and falsely designates Defendants' services as originating from or connected with Plaintiffs, and constitutes the use of false descriptions or representations in interstate commerce.

35. Defendants' actions constitute federal unfair competition and violate 15 U.S.C. § 1125(a).

36. As a direct and proximate result of Defendants' unfair competition, Plaintiffs have suffered and will continue to suffer loss of income, profits and good will and Defendants have and will continue to unfairly acquire income, profits and good will.

37. Defendants' acts of unfair competition will cause further irreparable injury to Plaintiffs if Defendants are not restrained by this Court from further violation of Plaintiffs' rights. Plaintiffs have no adequate remedy at law.

COUNT III
VIOLATION OF N.J.S.A. 56:8-1 (NEW JERSEY CONSUMER FRAUD ACT)

38. Plaintiffs re-allege and incorporate by reference the allegations of the preceding paragraphs as though fully set forth.

39. As its third ground for relief, Plaintiffs allege violation of the New Jersey Consumer Fraud Act.

40. Defendants' actions constitute an unconscionable commercial practice, deception, fraud, false pretense, or misrepresentation with the intent that others rely upon such false practice in connection with the sale and advertisement of dental service, and has thereby caused Plaintiffs damages.

COUNT IV
NEW JERSEY COMMON LAW TRADEMARK INFRINGEMENT

41. Plaintiffs re-allege and incorporate by reference the allegations of the preceding paragraphs as though fully set forth.

42. As its fourth ground for relief, Plaintiffs allege violation of New Jersey common law trademark infringement.

43. Defendants' actions constitute a trademark infringement under New Jersey common law because Defendants have intentionally used the Premier Family Dental name thereby creating confusion with the protected trademark of Premiere Family Dental Care that Plaintiffs use and own.

COUNT V
NEW JERSEY COMMON LAW UNFAIR COMPETITION

44. Plaintiffs re-allege and incorporate by reference the allegations of the preceding paragraphs as though fully set forth.

45. As its fifth ground for relief, Plaintiffs allege violation of New Jersey common law unfair competition.

46. Defendants' unauthorized marketing and sale of its services using the PREMIER FAMILY DENTAL mark and logo constitutes a use of a false designation of origin or false representation that wrongfully and falsely designates Defendants' services as originating from or connected with Plaintiffs, and constitutes the use of false descriptions or representations in interstate commerce.

47. Defendants' actions constitute unfair competition under New Jersey law.

48. As a direct and proximate result of Defendants' unfair competition, Plaintiffs have suffered and will continue to suffer loss of income, profits and good will and Defendants have and will continue to unfairly acquire income, profits and good will.

REQUEST FOR RELIEF

WHEREFORE, in consideration of the foregoing, Plaintiffs respectfully request that this Court enter an Order granting it the following relief:

a) Entering a judgment that Plaintiffs' PREMIERE FAMILY DENTAL CARE trademark has been and continues to be infringed by Defendants in violation of 15 U.S.C. § 1114(1);

b) Entering a judgment that Defendants' use of the PREMIER FAMILY DENTAL name constitutes federal unfair competition in violation of 15 U.S.C. § 1125(a);

c) Entering a judgment that Defendants' use of the PREMIER FAMILY

DENTAL name violates the New Jersey Consumer Fraud Act ;

d) Entering a judgment that Defendants' use of the PREMIER FAMILY

DENTAL name violates New Jersey common law trademark infringement and common law unfair competition laws;

e) Permanently enjoining and restraining the Defendants and each of their agents, employees, officers, attorneys, successors, assigns, affiliates and any persons in privity or active concert or participation with any of them from using the name PREMIER FAMILY DENTAL with or without its accompanying logo, or any other designation alone or in combination with other words or symbols, as a trademark, trade name component or otherwise, to market, advertise, distribute or identify Defendants' products and services where that designation would create a likelihood of confusion, mistake or deception with Plaintiffs' PREMIERE FAMILY DENTAL CARE mark;

f) Pursuant to 15 U.S.C. § 1116(a), directing Defendants to file with the Court and serve on Plaintiffs within thirty (30) days after issuance of an injunction, a report in writing and under oath setting forth in detail the manner and form in which Defendants have complied with the injunction;

g) Pursuant to 15 U.S.C. § 1118, requiring that Defendants and all others acting under Defendants' authority, at their cost, be required to deliver up and destroy all devices, literature, advertising, labels and other material in their possession bearing the infringing designation;

h) Pursuant to 15 U.S.C. § 1119, enjoining the Director of the United States Patent and Trademark Office from issuing to Defendants any trademark registration for

the PREMIER FAMILY DENTAL mark or any combination of words or symbols that would create a likelihood of confusion, mistake or deception with Plaintiffs' mark;

i) Awarding Plaintiffs all damages they sustained as the result of Defendants' acts of infringement and unfair competition, said amount to be trebled, together with prejudgment interest, pursuant to 15 U.S.C. § 1117;

j) Awarding to Plaintiffs all profits received by Defendants from sales and revenues of any kind made as a result of its infringing actions, said amount to be trebled, after an accounting pursuant to 15 U.S.C. § 1117;

k) Awarding treble actual damages and profits pursuant to 15 U.S.C. § 1117(b) because Defendants' conduct was willful within the meaning of the Lanham Act;

l) Awarding Plaintiff its attorneys' fees and costs pursuant to 15 U.S.C. § 1117, because of the exceptional nature of this case resulting from Defendants' deliberate infringing actions; and

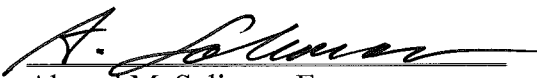
m) Granting Plaintiffs such other and further relief as the Court may deem just.

DEMAND FOR JURY TRIAL

Plaintiffs demand trial by jury on all issues so triable.

Dated this 23rd day of August, 2016.

Respectfully submitted,

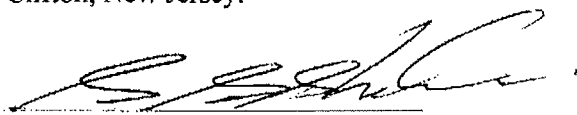


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Attorney for Plaintiffs

VERIFICATION

I, Dr. Seyed Shahmehdi, on behalf of myself and Seyed S. Shahmehdi, DMD,
P.A., verify under penalty of perjury under the laws of the United States of America that
the foregoing factual statements are true and correct.

Executed on August 23, 2016 in Clifton, New Jersey.



Dr. Seyed Shahmehdi